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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,247	11/20/2003	Mitsutoshi Shinkai	450100-04812	9926
7590 10/31/2008 FROMMER LAWRENCE & HAUG LLP 745 FIFTH AVENUE NEW YORK, NY 10151				
EXAMINER				
FLEURANTIN, JEAN B				
ART UNIT		PAPER NUMBER		
2162				
MAIL DATE		DELIVERY MODE		
10/31/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/718,247

Applicant(s)

SHINKAI ET AL.

Examiner

JEAN B. FLEURANTIN

Art Unit

2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 6-14, 16, 17, 19, 21-35 and 50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-7 and 34-35 is/are allowed.
- 6) ☒ Claim(s) 1, 8-14, 16-17, 19, 21-33 and 50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This is in response to Applicants remarks/arguments filed 10/10/2008.

The following is the current status of claims:

Claims 2-5, 15, 18, 20 and 36-49 have been canceled.

Claims 1, 6-14, 16, 17, 19, 21-35 and 50 remain pending for examination.

Response to Arguments

Applicant arguments, filed 10/10/2008, with respect to claims 6 and 34 have been fully considered and are persuasive. Therefore, the rejections of claims 6 and 34 have been withdrawn. However, upon further review all the pending claims. Claims 1, 8-14, 16-17, 19, 21-33 and 50 are rejected under 35 USC 101.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1, 8-14, 16-17, 19, 21-33 and 50 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

As set forth in MPEP 2106:

As per independent claim 1

The independent claim 1 is directed to a picture program production assistance system, which producing picture programs. Therefore, the mechanism for correlating content data relating to the take and the take meta data with the cut within the program meta data, and representing the range as the purpose of the invention. The claimed, "system" fails to fall with one of four statutory categories of invention, process, machine, manufacture and composition, since it fails to produce a useful and tangible result, and is software per se.

As per independent claim 8

The independent claim 8 is directed to a processing device, which manages in increment files for each of said picture programs. Therefore, the mechanism for correlating content data relating to the take and the take meta data with the cut within the program meta data, and representing the range as the purpose of the invention. The claimed, "processing device" fails to fall with one of four statutory categories of invention, process, machine, manufacture and composition, since it fails to produce a useful and tangible result, and is software per se.

Moreover, applicant specification, describes "processing device" as a planning team is a team which supervises the entire production of the picture program., page 14, lines 2-3.

The pending claims are rejected under the same rational.

Claims would be allowable if applicant has overcome the rejections.

Claims 6-7 and 34-35 are allowed.

CONTACT INFORMATION

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEAN B. FLEURANTIN whose telephone number is (571)272-4035. The examiner can normally be reached on 10:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN E. BREENE can be reached on 571 - 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JEAN B. FLEURANTIN/
Primary Examiner, Art Unit 2162